

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

These regulations are non-duplicative, that is they do not serve the same purpose, of any federal or state law or regulation unless otherwise specified in a Factual Basis.

a. Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 31-237(a)

Specific Purpose:

This section is adopted to specify the requirement that social workers/probation officers assist all minors and nonminor dependents to develop a 90-Day Transition Plan for independence while they are still in foster care to ensure that the youth or nonminor dependents are prepared for a successful transition to independent living and to specify the requirement that the 90-Day Transition Plan be developed within 90 days of a youth's 18th birthday or emancipation from foster care between the ages of 18 and 21 for a nonminor dependent.

Factual Basis:

This regulation is necessary to implement state law contained within Senate Bill (SB) 597 (Chapter 339, Statutes of 2009), which complied with federal legislation Public Law (P.L.) 110-351, adding Welfare and Institutions Code (WIC) section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B). The California Department of Social Services (CDSS) has determined that it was the intent of this provision in SB 597 to assist foster youth in successfully transitioning to independence by mandating the development of a plan that helps them identify and connect with post-emancipation supports such as housing, education, and employment. This regulation substantially duplicates the above cited state and federal legislation and statute but duplication is necessary to clarify program requirements and provide context for the subsequent proposed regulations for the 90-Day Transition Plan. [clarity standard at Government Code section 11349(c)]

Sections 31-237(a)(1) and (2)

Specific Purpose:

These sections are being adopted to clarify when the requirement in Section 31-237.1 is not applicable.

Factual Basis:

These regulations are necessary to accurately apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), which designates the required time frame for developing the 90-Day Transition Plan.

Section 31-237(b) Repealed

Specific Purpose/Factual Basis:

This proposed regulation is being deleted because the CDSS no longer views this regulation as necessary.

Sections 31-237(b) and (b)(1)-(2) are Renumbered from Sections 31-237(c) and (c)(1)-(2)

Specific Purpose:

These sections are renumbered from Sections 31-237(c) and (c)(1)-(2) to Sections 31-237(b) and (b)(1)-(2) due to deleting the originally proposed Section 31-237(b).

These sections clarify for social workers/probation officers which youth or nonminor dependents are required to have a 90-Day Transition Plan.

Factual Basis:

These regulations are necessary to accurately apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), which requires a 90-Day Transition Plan for particular populations of foster youth.

Section 31-237(d) Repealed

Specific Purpose/Factual Basis:

This proposed regulation is being deleted because guidance for the Transitional Independent Living Plan (TILP) should be applied in the TILP regulations instead.

Sections 31-237(c) and (c)(1)-(9) are Renumbered from Sections 31-237(e) and (e)(1)-(9)

Specific Purpose:

These sections are renumbered from Sections 31-237(e) and (e)(1)-(9) to Sections 31-237(c) and (c)(1)-(9) due to deleting the originally proposed Sections 31-237(b) and (d).

These sections clarify that youth or nonminor dependents may have other representatives, besides the social worker/probation officer, to advocate for their needs when planning for their transition to independence.

Factual Basis:

These sections are necessary for consistency with WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), which specifies that other representatives of the youth or nonminor dependents, as appropriate, may assist in the development of the 90-Day Transition Plan. The CDSS is using its broad authority to develop policy by identifying a non-limited list of representatives that can assist in the development of a youth's or nonminor dependent's 90-Day Transition Plan.

Section 31-237(d) is Renumbered from Section 31-237(f)

Specific Purpose:

This section is renumbered from Section 31-237(f) to Section 31-237(d) due to deleting the originally proposed Sections 31-237(b) and (d).

This section clarifies what, at a minimum, needs to be included in the 90-Day Transition Plan to help guide the process of developing the plan and ensure that the youth or nonminor dependent receives the benefits and services needed to successfully transition to independence.

Factual Basis:

This section is necessary to identify the correct reference of the minimum standards for the 90-Day Transition Plan.

Handbook Sections 31-237(d)(1)(A)- and (B) are Renumbered from Handbook Sections 31-237(f)(1), (1)(A) and (B)

Specific Purpose/Factual Basis:

This Handbook is renumbered from Sections 31-237(f)(1), (1)(A) and (B) to Sections 31-237(d)(1), (1)(A) and (B) due to deleting the originally proposed Sections 31-237(b) and (d).

This handbook quotes WIC section 16501.1(f)(16)(B) [Assembly Bill (AB) 1067 (Chapter 851, Statutes of 2016)], now re-numbered as 16501.1(g)(16)(B) for ease of reference.

Section 31-237(e) is Renumbered from Section 31-237(g)

Specific Purpose:

This section is renumbered from Section 31-237(g) to Section 31-237(e) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is being adopted to specify the requirement that the transition plan for independence, known as the 90-Day Transition Plan, include information on establishing a power of attorney for health care decisions to ensure youth and nonminor dependents are informed about this important health care option.

Non-essential proposed regulation is being deleted and the last sentence is being moved into Handbook as it is explanatory in nature.

Factual Basis:

This regulation is necessary because it provides context using state law contained in AB 212 (Chapter 459, Statutes of 2011), which complied with federal legislation P.L. 111-148, adding a new requirement in WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B). The CDSS has determined that the intent of P.L. 111-148 was to ensure that youth or nonminor dependents are supported by receiving comprehensive information about options for their health care. This regulation substantially duplicates the above cited state and federal legislation and statute but duplication is necessary to clarify program requirements and provide context for the subsequent proposed regulations for the 90-Day Transition Plan. [clarity standard at Government Code section 11349(c)]

Handbook Section 31-237(e)(1)

Specific Purpose/Factual Basis:

This handbook explains the purpose of a power of attorney for health care decisions to ensure that social workers/probation officers understand this option in order to accurately explain it to the youth or nonminor dependent.

Section 31-237(f) is Renumbered from Section 31-237(h)

Specific Purpose:

This section is renumbered from Section 31-237(h) to Section 31-237(f) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is being adopted to specify the requirement that the social worker/probation officer shall inform youth and nonminor dependents of the option to

execute a health care directive authorizing another person to make health care decisions for them if they are unable to do so themselves.

Factual Basis:

This regulation is necessary because CDSS has determined that the intent of state law contained in AB 212 (Chapter 459, Statutes of 2011), which complied with federal legislation P.L. 111-148, adding a new requirement in WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) is to mandate that youth and nonminor dependents receive information on the option to execute an Advance Health Care Directive to consider in making decisions regarding their health care and receive an Advance Health Care Directive form as one of the required documents that youth and nonminor dependents receive when their juvenile court jurisdiction is terminated.

Section 31-237(f)(1) is Renumbered from Section 31-237(h)(1)

Specific Purpose:

This section is renumbered from Section 31-237(h)(1) to Section 31-237(f)(1) due to deleting the originally proposed Sections 31-237(b) and (d).

This section specifies to the social worker/probation officer the advisability of providing a copy of the Advance Health Care Directive form at the time the plan is developed to assist the youth in understanding the purpose of, and information contained in, an Advance Health Care Directive.

In addition, technical and clarifying changes are being made to the proposed regulation.

Factual Basis:

This regulation is necessary to apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) that requires that social workers/probation officers provide information regarding the Advance Health Care Directive Form by providing youth and nonminor dependents with a tangible representation of the information.

Section 31-237(f)(2) is Renumbered from Section 31-237(h)(2)

Specific Purpose:

This section is renumbered from Section 31-237(h)(2) to Section 31-237(f)(2) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is being adopted to make clear to the social workers/probation officers that providing legal or health care advice to foster youth is prohibited, but they may offer other resources to youth and nonminor dependents to assist in their decision making with regards to health care directives.

In addition, technical and clarifying changes are being made to the proposed regulation.

Factual Basis:

This regulation is necessary to consistently apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) to ensure that the information that social workers/probation officers provide does not go beyond what is authorized under the law.

Sections 31-237(g) and (g)(1) are Renumbered from Sections 31-237(i) and (i)(1)

Specific Purpose:

These sections are renumbered from Sections 31-237(i) and (i)(1) to Sections 31-237(g) and (g)(1) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is adopted to improve the health and welfare of foster youth aging out of foster care by encouraging social workers/probation officers to include information about additional services that will help youth and nonminor dependents to successfully transition to independence in the 90-Day Transition Plan.

Factual Basis:

This regulation is necessary to apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), which specified that the information in the 90-Day Transition Plan should not be limited to the options specifically stated in the statute.

Section 31-237(g)(2) is Renumbered from Section 31-237(i)(2)

Specific Purpose:

This section is renumbered from Section 31-237(i)(2) to Section 31-237(g)(2) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is adopted to improve the health and welfare of foster youth aging out of foster care by ensuring the 90-Day Transition Plan includes information about additional services that will help youth and nonminor dependents to successfully transition to independence, including information relating to sexual health, services,

and resources to assist youth and nonminor dependents in making healthy and informed decisions for themselves.

In addition, technical changes have been made to the proposed regulations.

Factual Basis:

This addition is necessary for consistency with the Administration of Children, Youth and Families-Children's Bureau-Program Instruction (ACYF-CB-PI) 10-11, Section C, which encourages States to include information relating to sexual health, services, and resources in the plan to ensure that youth or nonminor dependents are informed and prepared to make healthy decisions about their lives.

Sections 31-237(h) and (h)(1)-(4) are Renumbered from Sections 31-237(j) and (j)(1)-(4)

Specific Purpose:

These sections are renumbered from Sections 31-237(j) and (j)(1)-(4) to Sections 31-237(h) and (h)(1)-(4) due to deleting the originally proposed Sections 31-237(b) and (d).

These sections are adopted as support to improve the health and welfare of foster youth aging out of foster care by advising the social worker/probation officer to prepare the youth or nonminor dependents well in advance of their 90-Day Transition Plan meeting to ensure youth and nonminor dependents can participate meaningfully in the development of their plan.

In addition, a grammatical change was made to the proposed regulations.

Factual Basis:

This addition is necessary for consistency with the ACYF-CB-PI 10-11, Section C, which directs States to begin earlier than 90 days before the youth or nonminor dependent plans to exit foster care in engaging and preparing youth or nonminor dependents to develop their 90-Day Transition Plan.

Section 31-237(i) is Renumbered from Section 31-237(k)

Specific Purpose:

This section is renumbered from Section 31-237(k) to Section 31-237(i) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is adopted to encourage social workers/probation officers to consider the youth's or nonminor dependent's other case plans when developing the 90-Day

Transition Plan for consistency and coordination of the youth's or nonminor dependent's case plans.

Factual Basis:

This regulation is necessary to align with the intent of WIC section 16501.1(g)(16)(B), which was re-numbered from WIC section 16501.1(f)(16)(B), to involve other representatives when providing assistance and support to the nonminor dependent in developing the 90-Day Transition Plan. Until now in the absence of regulations, the CDSS has used its broad authority to interpret and make specific WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) via the All County Letter (ACL) No. 09-87.

The CDSS has determined that the intent of SB 597 was to provide the youth or nonminor dependent with assistance in their transition to independence through the development of a clear and thorough plan for independent living, which is best accomplished by considering and coordinating all of the youths' or nonminor dependents' case plans.

Section 31-237(j) is Renumbered from Section 31-237(l)

Specific Purpose:

This section is renumbered from Section 31-237(l) to Section 31-237(j) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is adopted to ensure that all youth and nonminor dependents, including those with developmental disabilities or a physical or mental health disorder, receive the benefit of a transition plan which will help them access needed benefits, programs, and services.

In addition, the last sentence is deleted as a technical change.

Factual Basis:

This regulation is necessary to align with the intent of WIC section 16501.1(g)(16)(B), which was re-numbered from WIC section 16501.1(f)(16)(B), to involve other representatives when providing assistance and support to the nonminor dependent in developing the 90-Day Transition Plan. Until now in the absence of regulations, the CDSS has used its broad authority to interpret and make specific WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) via the ACL No. 09-87.

The CDSS has determined that the intent of SB 597 was to require a 90-Day Transition Plan for every eligible youth or nonminor dependent. For youth and nonminor dependents who are not capable of participating meaningfully in the

development of the plan due to a developmental disability or a physical or mental health disorder, this may require that social workers/probation officers, along with representatives from the youth's or nonminor dependent's other service providers and other important individuals in the youth's or nonminor dependent's life, develop the plan without the youth's or nonminor dependent's involvement.

Section 31-237(k) is Renumbered from Section 31-237(m)

Specific Purpose:

This section is renumbered from Section 31-237(m) to Section 31-237(k) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is adopted to ensure that youth or nonminor dependents who were on runaway status during the time a 90-Day Transition Plan would have been developed are provided with their available important documents upon request if the youth or nonminor dependent is located prior to turning age 21. Those documents include, but are not limited to, their birth certificate, social security card, proof of dependency, or Medi-Cal card, which allow them to access needed programs and services.

In addition, technical changes were made for clarity.

Factual Basis:

This regulation is necessary because data from the California Child Welfare Indicators Project (Child Welfare System/Case Management System [CWS/CMS] 2018 Quarter 4 Extract) shows that an average of 617 (4.7%) of youth and nonminor dependents, ages 17-21, were missing on January 1st of years 2015-2019. The CDSS has determined that the intent of AB 212 is for the counties to provide certain documents to the youth or nonminor dependent prior to a hearing to terminate juvenile court jurisdiction. A youth or nonminor dependent on runaway status would not be available to receive these documents at the time of their termination hearing. This regulation would provide an alternate way for runaway youth or nonminor dependents to access their important documents.

Section 31-237(l) is Renumbered from Section 31-237(n)

Specific Purpose:

This section is renumbered from Section 31-237(n) to Section 31-237(l) due to deleting the originally proposed Sections 31-237(b) and (d).

This section is adopted to ensure that there is a record of the participation of all persons involved in developing the plan, and that the youth or nonminor dependent

receives a copy of the plan, and to allow social workers/probation officers to provide a copy of the plan to other participants.

In addition, technical changes were made for clarity.

Factual Basis:

This regulation is necessary to align with the intent of WIC section 16501.1(g)(16)(B), which was re-numbered from WIC section 16501.1(f)(16)(B), to involve other representatives when providing assistance and support to the nonminor dependent in developing the 90-Day Transition Plan. Until now in the absence of regulations, the CDSS has used its broad authority to interpret and make specific WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) via the ACL No. 09-87.

b. Identification of Documents Upon Which CDSS Is Relying

SB 597 (Chapter 339, Statutes of 2009)
AB 212 (Chapter 459, Statutes of 2011)
AB 1067 (Chapter 851, Statutes of 2016)
ACL 09-87
ACL 10-45
ACYF-CB-PI 10-11, Section C
P.L. 110-351
P.L. 111-148
California Child Welfare Indicators Project (CCWIP) CWS/CMS 2018 Quarter 4
Extract for placement type for foster youth ages 17-21 on January 1, 2015 through 2019.

c. Economic Impact Assessment [Government Code section 11346.3(b)]

In accordance with WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), CDSS has assessed the impact of the requirements of the proposed regulations. The CDSS has made an initial determination that there would be no economic impact as a result of issuing these regulations because the regulations apply only to county child welfare agencies and probation departments.

In accordance with Government Code section 11346.3(b), CDSS has made the following assessments regarding the proposed regulations. This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

The proposed regulations include the following provisions:

- Existing regulations governing the TILP require that transition planning services be provided to youth and nonminor dependents in the foster care system. To comply with P.L. 110-351, the Federal Fostering Connections to Success and Increasing Adoptions Act, SB 597 (Chapter 339, Statutes of 2009) added an additional transition planning requirement (WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B)): a transition plan that is developed within 90 days of the youth's or nonminor dependent's planned exit from foster care at age 18 or older.
- AB 212 (Chapter 459, Statutes of 2011) mandated that the 90-Day Transition Plan include information about advanced health care directive forms (WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B)).
- AB 1067 (Chapter 851, Statutes of 2016) mandated that the information in the 90-Day Transition Plan regarding health insurance include verification that the eligible youth or nonminor dependent is enrolled in Medi-Cal and a description of the steps that have been or will be taken by the assigned social worker or probation officer to ensure that the youth or nonminor dependent is successfully transitioned into the Medi-Cal program for former foster youth upon exit from foster care.

Creation or Elimination of Jobs Within the State of California

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California. The justification for this statement is that the regulations would only apply to county child welfare agencies and probation departments and would not add a significant workload for social workers/probation officers.

Creation of New or Elimination of Existing Businesses Within the State of California

The adoption of the proposed regulations will neither result in the creation of new businesses nor elimination of existing businesses in the State of California. The justification for this statement is that the regulations would only apply to county child welfare agencies and probation departments.

Expansion of Business Within the State of California

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California. The justification for this statement is that the regulations would only apply to county child welfare agencies and probation departments.

Benefits of the Regulations

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: the proposed regulations will provide a benefit to the health and welfare of California residents but only for foster youth emancipating from the foster care system. The regulations will provide these foster youths with a transition plan for independence to help them succeed in living independently; provides information to foster youth regarding the important option of having someone else make health care decisions for them in the event they are unable to and how to accomplish this through an advance health care directive; and ensures that foster youth exiting the foster care system have health insurance until age 26. Worker safety is not affected by this regulatory action. The state's environment is not affected by this regulatory action.

Documents Relied Upon

SB 597 (Chapter 339, Statutes of 2009)

AB 212 (Chapter 459, Statutes of 2011)

AB 1067 (Chapter 851, Statutes of 2016)

ACL 09-87

ACL 10-45

ACYF-CB-PI 10-11, Section C

P.L. 110-351

P.L. 111-148

California Child Welfare Indicators Project (CCWIP) CWS/CMS 2018 Quarter 4

Extract for placement type for foster youth ages 17-21 on January 1, 2015 through 2019.